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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/801,764	03/09/2001	Guenter Hess	197934US6	4543

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OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER

NOVOSAD, JENNIFER ELEANORE

ART UNIT	PAPER NUMBER
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3634

DATE MAILED: 12/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

09/801,764

Applicant(s)

HESS ET AL.

Examiner

Jennifer E. Novosad

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- The MAILING DATE of this communication appears on the cover sheet with the correspondence address -

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2, 4-6, and 8-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4-6, and 8-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 March 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Request for Continued Examination

The request filed on December 1, 2003 (Paper No. 21) for a Continued Examination (RCE) under 37 CFR 1.53(d) based on parent Application No. 09/801,764 is acceptable and an RCE has been established. An action on the RCE follows.

Claims 1, 2, 4-6, 8, and 9-14 are pending.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

As previously indicated, claims 1, 2, 6, 8, 9, 10, 13, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Llewellyn '993, alone.

Llewellyn '993 discloses an assembly defined by a dishrack in a dishwasher (not shown) whereby the dishrack (10) comprises a frame (see Figure 3) defined by metal rods (16 - see column 2, line 57) that have a plastic coating (18 - see column 2, line 57) which covers the frame (16 - see Figure 3).

It is noted that the limitation "configured to distribute water over a surface of the coating in a form of a substantially uniform film" (in lines 3-4 of claims 1 and 9) is merely functional. *Nevertheless*, when the dishwasher is in use, the shape of the rods, i.e., circular, would inherently cause the water in the dishwasher to be distributed over an *upper* surface of the coating and

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frame. *Accordingly*, this distribution of water is considered to be a "substantially uniform film", insomuch as the claims recite this, taken relative to a very small area of the coating, e.g., a single drop may be considered to define a uniform film. It is noted that the claims do not require that the uniform film be distributed over the "entire" surface of the coating.

The claims differ from Llewellyn '993 in requiring: (a) the surface roughness of the coating to be greater than or equal to $5\mu\text{m}$ (claims 1 and 9), and (b) the frame to be comprised of *steel* wire (claims 6 and 13).

With respect to (a), although Llewellyn '993 does not disclose the roughness of the coating, it can be seen from Figure 3 that the coating is smooth. *Accordingly*, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have fabricated the frame having a coating with a surface roughness, as called for in the claims and as determined through routine experimentation and optimization, thereby decreasing the risk of corrosion.

With respect to (b), although Llewellyn '993 does not disclose the frame being made from *steel*, it would have been an obvious engineering design choice to one of ordinary skill in the art at the time the invention was made to have utilized *steel* wire for the frame, thereby increasing the strength, stability, and rigidity of the frame.

As previously indicated, claims 4, 5, 11, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Llewellyn '993 as applied to claims 1, 2, 6, 8, 9, 10, 13, and 14 above, and further in view of Keeny *et al.* '000. Llewellyn '993 discloses the assembly as advanced above.

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The claims differ from Llewellyn '993 in requiring: (a) the coating to be deposited by a coating process, and (b) the coating to comprise a polyamide.

Keeny *et al.* '000 teach that it is old in the art to utilize a plastic coating process (see column 4, lines 17-30) whereby a polyamide coating is deposited onto such devices as dishwasher baskets.

With respect to (a) and (b), it would have been obvious to one of ordinary skill in the art at the time the invention was made to have utilized a polyamide coating placed on the frame by a plastic coating process, as taught by Keeny *et al.* '000, thereby decreasing corrosion and wear resistance.

Response to Arguments

Applicant's arguments filed December 1, 2003 (Paper No. 21) have been fully considered but they are not persuasive.

With respect to applicant's arguments (see the middle of the first paragraph on page 5) that the "surface roughness is... sufficient to distribute water... not drops, on the surface of the coating, thereby evaporated by a small amount of heat" and that "the water becomes thin films", it is noted that the claims do not require the films to be "thin" nor do the claims recite that the water is "not drops". *Thus*, these arguments are considered to be more limiting than what is actually being claimed and therefore are not commensurate with the scope of the claim. It is noted that although "thin" is a relative term, when compared to another element of the claimed invention, such as the diameter of the rods of the frame, the thickness of the film (of water) could be considered to be "thin".

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With respect to Keeny *et al.* (see the first full paragraph on page 5), it is noted that this reference has been utilized to merely show a coating made from polyamide.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer E. Novosad whose telephone number is (703)-305-2872. The examiner can normally be reached on Monday-Thursday, 5:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (703)-308-2686. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)-308-1113.


Jennifer E. Novosad
Primary Examiner
Art Unit 3634

Jennifer E. Novosad/jen
December 18, 2003